



General Assembly

February Session, 2014

## ***Amendment***

LCO No. 4137

**\*HB0522104137SR0\***

Offered by:

SEN. MCKINNEY, 28<sup>th</sup> Dist.  
SEN. KISSEL, 7<sup>th</sup> Dist.  
SEN. KELLY, 21<sup>st</sup> Dist.  
SEN. MCLACHLAN, 24<sup>th</sup> Dist.  
SEN. WELCH, 31<sup>st</sup> Dist.

To: Subst. House Bill No. 5221

File No. 147

Cal. No. 346

**"AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2014*) (a) If the case of a child,  
4 as defined in section 46b-120 of the general statutes, is transferred to  
5 the regular criminal docket of the Superior Court pursuant to section  
6 46b-127 of the general statutes, as amended by this act, and the child is  
7 convicted pursuant to such transfer of capital felony committed prior  
8 to April 25, 2012, punishable in accordance with subparagraph (A) of  
9 subdivision (1) of section 53a-35a of the general statutes, murder with  
10 special circumstances committed on or after April 25, 2012, punishable

11 as a class A felony in accordance with subparagraph (B) of subdivision  
12 (1) of section 53a-35a of the general statutes, murder under section 53a-  
13 54d of the general statutes, or any other crime punishable by a term of  
14 life imprisonment without the possibility of release, at the time of  
15 sentencing, the court shall:

16 (1) Consider, in addition to any other information relevant to  
17 sentencing, any scientific and psychological evidence showing the  
18 differences between a child's brain development and an adult's brain  
19 development, including, but not limited to, evidence showing, as  
20 compared to an adult: (A) A child's lack of maturity and  
21 underdeveloped sense of responsibility, including evidence showing a  
22 child's recklessness, impulsivity and risk-taking tendencies; (B) a  
23 child's vulnerability to negative influences and outside pressures from  
24 peers or family members, or both; (C) a child's increased capacity for  
25 change and rehabilitation; and (D) a child's reduced competency in (i)  
26 appreciating the risks and consequences of his or her own actions, (ii)  
27 negotiating the complexities of the criminal justice system, and (iii)  
28 assisting in his or her own defense; and

29 (2) Consider, if the court proposes to sentence the child to a lengthy  
30 sentence under which it is likely that the child will die while  
31 incarcerated, how the scientific and psychological evidence described  
32 in subdivision (1) of this subsection counsels against such a sentence.

33 (b) Notwithstanding the provisions of section 54-91a of the general  
34 statutes, no presentence investigation or report may be waived with  
35 respect to a child described in subsection (a) of this section. Any  
36 presentence report prepared with respect to a child described in  
37 subsection (a) of this section shall address the factors set forth in  
38 subparagraphs (A) to (D), inclusive, of subdivision (1) of subsection (a)  
39 of this section.

40 (c) The Court Support Services Division of the Judicial Branch shall  
41 establish reference materials relating to adolescent psychological and  
42 brain development to assist courts in sentencing children pursuant to

43 this section.

44 Sec. 2. Subsection (c) of section 46b-127 of the 2014 supplement to  
45 the general statutes is repealed and the following is substituted in lieu  
46 thereof (*Effective October 1, 2014*):

47 (c) Upon the effectuation of the transfer, such child shall stand trial  
48 and be sentenced, if convicted, as if such child were eighteen years of  
49 age, subject to the requirements of section 1 of this act. Such child shall  
50 receive credit against any sentence imposed for time served in a  
51 juvenile facility prior to the effectuation of the transfer. A child who  
52 has been transferred may enter a guilty plea to a lesser offense if the  
53 court finds that such plea is made knowingly and voluntarily. Any  
54 child transferred to the regular criminal docket who pleads guilty to a  
55 lesser offense shall not resume such child's status as a juvenile  
56 regarding such offense. If the action is dismissed or nolleed or if such  
57 child is found not guilty of the charge for which such child was  
58 transferred or of any lesser included offenses, the child shall resume  
59 such child's status as a juvenile until such child attains the age of  
60 eighteen years.

61 Sec. 3. Subsection (f) of section 46b-133c of the general statutes is  
62 repealed and the following is substituted in lieu thereof (*Effective*  
63 *October 1, 2014*):

64 (f) Whenever a proceeding has been designated a serious juvenile  
65 repeat offender prosecution pursuant to subsection (b) of this section  
66 and the child does not waive such child's right to a trial by jury, the  
67 court shall transfer the case from the docket for juvenile matters to the  
68 regular criminal docket of the Superior Court. Upon transfer, such  
69 child shall stand trial and be sentenced, if convicted, as if such child  
70 were eighteen years of age, subject to the requirements of section 1 of  
71 this act, except that no such child shall be placed in a correctional  
72 facility but shall be maintained in a facility for children and youths  
73 until such child attains eighteen years of age or until such child is  
74 sentenced, whichever occurs first. Such child shall receive credit

75 against any sentence imposed for time served in a juvenile facility  
76 prior to the effectuation of the transfer. A child who has been  
77 transferred may enter a guilty plea to a lesser offense if the court finds  
78 that such plea is made knowingly and voluntarily. Any child  
79 transferred to the regular criminal docket who pleads guilty to a lesser  
80 offense shall not resume such child's status as a juvenile regarding  
81 such offense. If the action is dismissed or nolleed or if such child is  
82 found not guilty of the charge for which such child was transferred,  
83 the child shall resume such child's status as a juvenile until such child  
84 attains eighteen years of age.

85 Sec. 4. Subsection (f) of section 46b-133d of the general statutes is  
86 repealed and the following is substituted in lieu thereof (*Effective*  
87 *October 1, 2014*):

88 (f) When a proceeding has been designated a serious sexual  
89 offender prosecution pursuant to subsection (c) of this section and the  
90 child does not waive the right to a trial by jury, the court shall transfer  
91 the case from the docket for juvenile matters to the regular criminal  
92 docket of the Superior Court. Upon transfer, such child shall stand trial  
93 and be sentenced, if convicted, as if such child were eighteen years of  
94 age, subject to the requirements of section 1 of this act, except that no  
95 such child shall be placed in a correctional facility but shall be  
96 maintained in a facility for children and youths until such child attains  
97 eighteen years of age or until such child is sentenced, whichever occurs  
98 first. Such child shall receive credit against any sentence imposed for  
99 time served in a juvenile facility prior to the effectuation of the  
100 transfer. A child who has been transferred may enter a guilty plea to a  
101 lesser offense if the court finds that such plea is made knowingly and  
102 voluntarily. Any child transferred to the regular criminal docket who  
103 pleads guilty to a lesser offense shall not resume such child's status as  
104 a juvenile regarding such offense. If the action is dismissed or nolleed or  
105 if such child is found not guilty of the charge for which such child was  
106 transferred, the child shall resume such child's status as a juvenile until  
107 such child attains eighteen years of age."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	46b-127(c)
Sec. 3	<i>October 1, 2014</i>	46b-133c(f)
Sec. 4	<i>October 1, 2014</i>	46b-133d(f)